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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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TOLER LAW GROUP			SAMS, MATTHEW C	
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AUSTIN, TX 78759			2617	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/668,686	PEARSON ET AL.	
	Examiner	Art Unit	
	MATTHEW SAMS	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 August 2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 43-81 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 43-81 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/29/2008 has been entered.

2. Claims 1-42 are canceled and claims 43-81 have been added.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 61-81 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled “Clarification of ‘Processes’ under 35 U.S.C. 101”). The instant claims neither transform underlying subject matter nor positively tie to another statutory

category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

While claim 61 does point to multiple “proximity sensors” which can be statutory apparatuses, the device/apparatus that is actually “determining the proximity zone data” that is received from the proximity sensors, “storing the proximity zone data” and “sending a call redirection message” is not mentioned, therefore the “method of processing a call” is not tied to a statutory category and considered the same as a *program per se* claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 43-45, 47, 49, 50, 60, 61, 69-77 and 79-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contractor (US-7,006,833).

Regarding claim 43, Contractor teaches a system for manipulating call redirection (Abstract and Col. 1 line 51 through Col. 2 line 40), the system comprising:

a communication module (Fig. 3 [114]) to determine proximity zone data of a subscriber by receiving information from a plurality of proximity sensors associated with the subscriber (Fig. 6 [602 & 603]), wherein each of the plurality of proximity sensors indicates proximity zone information based on whether a proximity indicator of the

subscriber (Fig. 6 [304]) is detected within a proximity zone associated with the proximity sensor (Col. 9 line 65 through Col. 10 line 6), wherein the plurality of proximity sensors includes at least a first proximity sensor (Fig. 6 [602 or 603]) associated with a first proximity zone (Col. 11 lines 14-19 or lines 31-33) and a second proximity sensor (Fig. 5 [503]) associated with a second proximity zone (Col. 10 lines 30-31), and wherein the first proximity sensor communicates via a first network to the communication module (Fig. 6 and Col. 11 lines 14-22) and the second proximity sensor communicates via a second network to the communication module; (Fig. 5 and Col. 10 lines 26-34)

a proximity zone database (Fig. 3 [116]) coupled to the communication module (Fig. 3 [114]), the proximity zone data storing the proximity zone data; (Col. 9 lines 23-32) and

a call direction control system (Fig. 3 [114]) coupled to the proximity zone database to redirect calls directed to a primary destination address (Col. 9 lines 12-14) of the subscriber (Col. 9 line 65 through Col. 10 line 6 and Fig. 4B [410]):

to a first selected address when the proximity zone data indicates that the subscriber is in the first proximity zone (Col. 7 lines 57-67), wherein the first selected address is a telephone number of a device in the first proximity zone; (Col. 7 line 64 and Col. 9 lines 54-65)

to a second selected address when the proximity zone data indicates that the subscriber is in the second proximity zone (Col. 7 line 38 through Col. 8 line 9), wherein the second selected address is an email address associate with the second proximity zone; (Col. 7 line 64) and

to a third selected address when each of the plurality of proximity zone sensors indicates that the proximity indicator is not detected within the proximity zone associated with the respective proximity sensor (Col. 10 lines 6-10), wherein the third selected address is associated with a mobile communication device of the subscriber. (Col. 10 lines 10-13)

Contractor differs from the claimed invention by not explicitly reciting “polling each of a plurality of proximity sensors”. However, Contractor not only teaches that the proximity sensors proactively transmit the location of the called party to the network (Col. 10 lines 26-46 & Col. 11 lines 14-21) but also that the SCP (Fig. 5 [114] analogous to the claimed “call direction control system” and “communication module”) has the ability to query the location detection system to determine the location of a called party (Col. 9 lines 23-32) in order to properly forward the call, therefore it is obvious to one of ordinary skill in the art to modify the SCP within Contractor in order to directly poll or query the proximity sensors when needed to determine the location of a user instead of storing the location information in a separate server in order to ensure the location information being received is not outdated. One of ordinary skill in the art would have been motivated to do this because it reduces costs by eliminating the need for a separate server to store the possibly outdated location of a user.

Regarding claim 44, Contractor teaches the first proximity zone is a home proximity zone associated with a home of the subscriber (Col. 11 lines 14-30), and wherein the second proximity zone is a work proximity zone associated with a work place of the subscriber. (Col. 11 lines 31-33)

Regarding claim 45, Contractor teaches at least one proximity sensor of the plurality of proximity sensors indicates detection of the proximity indicator when the proximity indicator is in contact with the at least one proximity sensor. (Col. 11 lines 14-22)

Regarding claim 47, Contractor teaches at least one proximity sensor of the plurality of proximity sensors indicates detection of the proximity detector based on a global positioning signal. (Col. 10 lines 26-60)

Regarding claim 49, Contractor teaches wherein the primary destination address is associated with a unified messaging system that receives fax, email, voice and voicemail communications for the subscriber. (Col. 7 lines 60-67 and Col. 10 lines 10-14)

Regarding claim 50, Contractor teaches wherein at least one proximity indicator comprises a wearable device. (Col. 7 lines 53-57)

Regarding claim 60, Contractor teaches the first network includes a wireless network (Fig. 5 [504 & 505]) and the second network includes a wireline network. (Fig. 6 [103, 104, 123 & 603])

Regarding claim 61, the limitations of claim 61 are rejected as being the same reason set forth above in claim 43 above.

Regarding claim 69, Contractor teaches the proximity indicator includes a plurality of mobile devices associated with the subscriber. (Col. 10 lines 28-30, Fig. 5 [503], Fig. 6 [304] and Col. 11 lines 14-19)

Regarding claim 70, Contractor teaches detecting a change in the proximity zone data; (Col. 9 lines 48-51)

storing the changed proximity zone data; (Col. 9 lines 51-54) and sending a second call redirection message. (Col. 9 lines 54-64)

Regarding claim 71, Contractor teaches the second call redirection message stops redirections of calls directed to the communication address of the subscriber. (Col. 9 line 65 through Col. 10 line 10)

Regarding claim 72, Contractor teaches detecting the change in the proximity zone data comprises receiving an indication from at least one proximity sensor of the plurality of proximity sensors that the proximity indicator is no longer detected in the proximity zone associated with the at least one proximity sensor. (Col. 11 lines 14-63 *i.e.* the user moves from near the home telephone to a mobile telephone and then to the work telephone)

Regarding claim 73, Contractor teaches detecting the change in the proximity zone data comprises receiving an indication from at least one proximity sensor of the plurality of proximity sensors that the proximity indicator is detected in the proximity zone associated with the at least one proximity sensor. (Col. 11 lines 14-63 *i.e.* the user moves from near the home telephone to a mobile telephone and then to the work telephone and Col. 9 lines 45-64)

Regarding claim 74, the limitations of claim 74 are rejected as being the same reasons set forth above in claim 44.

Regarding claim 75, Contractor teaches the first communication address comprises a unified messaging address (Col. 10 lines 12-13 voicemail/email), the second communication address comprises a home telephone number of the subscriber (Col. 9 lines 12-14), the third communication address comprises a work related address

of the subscriber (Col. 9 line 10), and the fourth communication address comprises a mobile telephone number of the subscriber. (Col. 10 line 12)

Regarding claim 76, Contractor teaches the work related address of the subscriber is an electronic mail address. (Col. 10 line 13)

Regarding claim 77, Contractor teaches a computer connected to a network access point sends the call redirection message. (Col. 4 lines 11-20 and Col. 8 line 66 through Col. 9 line 32 and Fig. 1)

Regarding claim 79, Contractor teaches the use of a router. (Col. 4 lines 14-17)

Regarding claim 80, Contractor teaches the use of a data network switch. (Col. 3 line 14 “SSP”)

Regarding claim 81, Contractor teaches the call redirection message redirects a data call. (Col. 8 lines 10-16)

6. Claims 46 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contractor in view of Battle et al. (US 2002/0113879 hereinafter, Battle).

Regarding claim 46, Contractor teaches the use of proximity sensors for detecting the proximity indicators, but differs from the claimed invention by not explicitly reciting the use of an ultrasonic signal.

In an analogous art, Battle teaches the use of proximity sensors that includes utilizing ultrasonic signals. (Page 2 [0040]) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the proximity sensors of Contractor after modifying them to incorporate the use of ultrasonic signals of Battle. One of ordinary skill in the art would have been motivated to do this since

ultrasonic devices can be mounted within a stationary phone and are well known to one of ordinary skill in the art.

Regarding claims 51, 52 & 53, Contractor in view of Battle teaches the use of a smart card and an RFID device (Battle Page 2 [0034 & 0040] radio tag & smart card reader), which is the heart of an electronic wallet. (As can be seen for reference in Darby US-2003/0013438 [0034-0035])

7. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Contractor in view of Crowson et al. (US 2002/0000930 hereinafter, Crowson)

Regarding claim 48, Contractor teaches the use of proximity sensors for detecting the proximity indicators, but differs from the claimed invention by not explicitly reciting the use of a locator based on a 911 wireless service.

In an analogous art, Crowson teaches once a user makes a call to a 911 service, the call processor automatically determines the location of the user based on the cell tower location. (Page 2 [0017]) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the call forwarding service of Contractor after modifying it to incorporate using 911 services for location information of Crowson since 911 location information was mandated by the government in all cellular telephones.

8. Claims 54-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contractor in view of Gross et al. (US-6,389,117 hereafter, Gross)

Regarding claim 54, Contractor teaches redirecting a call to a selected address (Abstract) based on the user location, the call direction control system receives the call. (Fig. 4A [403]) Contractor differs from the claimed invention by not explicitly reciting

placing a second call to the selected address and prompting the subscriber to select an action to be taken with respect to the call after the subscriber answers the second call.

In an analogous art, Gross teaches a system and method of using a single telephone number to access multiple communication services that includes receiving a call, placing a second call to the selected address (Col. 16 lines 33-34) and prompting the subscriber to select an action to be taken with respect to the call after the subscriber answers the second call. (Col. 16 lines 16-37 and Fig. 8) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the location based call forwarding of Contractor after modifying it to incorporate a user menu for call action/inaction of Gross. One of ordinary skill in the art would have been motivated to do this since even if a subscriber is using location based routing, a subscriber might find it temporarily inconvenient to always answer the phone.

Regarding claim 55, Contractor in view of Gross teaches connecting the first call and the second call to allow the caller to engage in a conversation with the subscriber if the selected action indicates to forward the call. (Gross Col. 16 lines 16-37)

Regarding claim 56, Contractor in view of Gross teaches after receiving the call, the call redirection control system prompts a caller to provide the caller's name and stores a data record including the caller's name. (Gross Col. 16 lines 31-33)

Regarding claim 57, Contractor in view of Gross teaches after placing the second call, the call direction control system accesses the data record including the caller's name and plays an announcement to the subscriber that includes the caller's name before prompting the subscriber to select the action. (Gross Col. 16 lines 33-37)

Regarding claim 58, Contractor in view of Gross teaches the action is selected from a first option to answer the call and a second option to route the call to voice mail. (Gross Fig. 8 and Col. 16 line 28-37)

Regarding claim 59, Contractor in view of Gross teaches the action includes redirecting the call (Gross Col. 16 lines 36-37) to e-mail. (Contractor Col. 10 lines 6-13)

9. Claims 62, 63, 65-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contractor in view of Trioano et al. (US-2006/0136546 hereinafter, Trioano).

Regarding claim 62, 63, 65 and 67, Contractor teaches the limitations of claim 61 above, but differs from the claimed invention by not explicitly reciting the use of an application layer communication protocol, a Remote Procedure Call, a Simple Object Access Protocol message or HTTP.

In an analogous art, Trioano teaches a triggering system to initiate communications in a mobile network (Abstract) that includes the use of SOAP messaging (Page 5 [0065]), which inherently is an application layer communication and relies heavily upon Remote Procedure Call and HTTP for implementation. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the location based call forwarding of Contractor after modifying it to incorporate the use of SOAP as a triggering message of Trioano since it is based on XML and is a lightweight protocol for communication between web services in computer networks.

Regarding claims 66, Contractor in view of Trioano teaches the use of e-mail messaging. (Trioano Page 2 [0015 & 0018])

10. Claims 64, 68 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contractor in view of Khan et al. (US-2002/0165988 hereinafter, Khan).

Regarding claim 64, Contractor teaches the limitations of claim 61 above, but differs from the claimed invention by not explicitly reciting the use of InterProcess Communication messages.

In an analogous art, Khan teaches a mechanism for retrieving network content that includes using Interprocessor communications. (Page 15 [0175]) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the location based call forwarding of Contractor after modifying it to incorporate the Interprocessor communication messaging of Khan since it enables easy communication between server applications.

Regarding claim 68, Contractor in view of Khan teaches the use of file transfer protocol messages. (Page 16 [0182-0183])

Regarding claim 78, Contractor in view of Khan teaches the use of a modem. (Page 1 [0009])

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW SAMS whose telephone number is (571)272-8099. The examiner can normally be reached on M-F 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCS
11/20/2008

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617